

## **REMARKS/ARGUMENTS**

### **OBJECTIONS TO THE SPECIFICATION:**

The Examiner has objected to the abstract as filed. In response, applicants have amended the abstract.

### **CLAIM REJECTIONS:**

#### **35 USC § 102(e)**

##### **Claims 1-2, 7-10, and 15-17**

The Examiner has rejected claims 1-2, 7-10, and 15-17 under 35 USC § 102(e) as being anticipated by U.S. Pat. No. 6,662,200 to Acharya ("Acharya"). Although applicants respectfully disagree with the Examiner's rejection, in the interests of furthering prosecution of this application applicants have cancelled claims 1-2, 7-10, and 15-17 without prejudice.

#### **35 USC § 103(a)**

##### **Claims 3-6, 11-14, and 19-20**

The Examiner has rejected claims 3-6, 11-14 and 19-20 under 35 USC § 103(a) as being unpatentable over Acharya in view of U.S. Pat. No. 4,674,125 to Carlson et al. Applicants respectfully traverse this rejection. Applicants have canceled claims 5 and 13, and have amended claims 6, 14 and 19 without prejudice and for reasons other than in response to this rejection.

Applicants respectfully direct the Examiner's attention to MPEP 706.02(I)(1) wherein states:

Effective November 29, 1999, subject matter which was prior art under former 35 U.S.C. 103 via 35 U.S.C. 102(e) is now disqualified as prior art against the claimed invention if that subject matter and the claimed invention "were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." This change to 35 U.S.C. 103(c) applies to all utility, design and plant patent applications filed on or after November 29, 1999.

Applicants note that that: (1) the application for the claimed invention was filed on December 28, 2001; and (2) the claimed invention and Acharya were, at the time the invention was made, owned by the same assignee. In light of these facts, applicants assert that the combination of Acharya and Carlson et al is an improper combination under 35 U.S.C. 103(c) and thus fails to establish a prima facie case of non-patentability under 35 U.S.C. 103(a).

**CONCLUSION**

In view of the foregoing, it is respectfully asserted that all of the claims pending in this patent application are in condition for allowance.

The required fee for a one month extension of time is enclosed. No additional fees are required for additional claims. Should it be determined that an additional fee is due under 37 CFR §§1.16 or 1.17, or any excess fee has been received, please charge that fee or credit the amount of overcharge to deposit account #02-2666.

If the Examiner has any questions, he is invited to contact the undersigned at (503) 264-6473. Reconsideration of this patent application and early allowance of all the claims is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Hinchliffe', with a long horizontal flourish extending to the right.

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